

## R E M A R K S

### **I. Restriction Requirement**

The subject *Notice* reminded Applicants that they were required to elect a specific polymorphism or a combination of polymorphisms. According to the Office this was not done, relying on the statement in Applicants' prior response which stated:

“As for a further election of a polymorphic site (Section I/B, above), Applicants elect, with traverse, and in view of the interview, the group of polymorphic positions (or SNPs) located at nucleotide 12580, and with respect to claim 21, combination of this position with positions 7121, 7437, 8070, 8406, 9463, 9466, 12219, 13889 and 14440.”

Thus, the Examiner pointed out that Applicants had not made a proper election due to their election of **both** a specific polymorphism and a combination of polymorphisms, and thus the May 14, 2008 Response was deemed non-responsive under 37 C.F.R. §1.111.

### **Applicants' Amended Response to Restriction Requirement**

The foregoing response was based on Applicants' misunderstanding of what the Examiner had conveyed to the undersigned telephonically. To correct this, **Applicants hereby elect the polymorphism (SNP) at position 12580 of SEQ ID NO:1** (see, e.g., claims 20, 23, 36). Applicants understand that these claims will be examined only with respect to the SNP at position 12580.

### **II. Claim Amendments and New Claims**

The amendments in the prior paper have been now “integrated” into the present claims, so that the Listing above labels one previously amended claim (claim 24) as “previously presented.”

Previously withdrawn claims 1-19 and 26-28 are now being cancelled. Applicants are adding new claims 29-46.

Claim 20 is amended to more specifically claim the elected subject matter (focusing on the SNP at position 12580). The language “in linkage disequilibrium with...” is introduced in this claim (and claims 21, 36, 45 and 46 ). The “proviso” clause originally in claim 20 is being deleted as unnecessary. As noted, claim 21, while amended, is being withdrawn from consideration

Claim 21, directed to combinations of the polymorphism at position 12580 with others that are in linkage disequilibrium is placed in “withdrawn” status, although it is currently being amended

in accordance with other amendments herein (discussed below). Analogously, new claims 45 and 46 are added and placed in withdrawn status for the same reason.

New claim 36 is analogous to amended claim 20, differing in scope in the following parameters: (a) the kit is not limited to inclusion of a restriction enzyme; and (b) the kit rather includes an oligonucleotide and is focused on determining one or more of 3 “genotypes” at position 12580.

**If the Office believes that the foregoing amendments and new claims are still “non-responsive,” the Examiner is kindly requested to contact the undersigned at the phone number shown below to clarify the Office’s position so that Applicants may quickly remedy this issue without a further prolongation of prosecution.**

The dependency of claims 22, 23 and 25 is amended so that they depend from claim 20. Other of the current amendments are intend to provide greater clarity. The new claims recite additional embodiments that are supported in the specification and in the now-cancelled method claims. For example claim 33 is related to former claim 9. Support for the sequences in new claims 31 and 44 is found in Table 1B (occupying all of page 24 of the specification).

These amendments and new claims do not introduce new matter, and their entry is requested prior to examination on the merits of **presently active Claims 20, 22-25 and 29-46.**

**III. Conclusion**

Applicants respectfully request entry of the foregoing election and amended claims. The application is now in condition for Examination on the merits and allowance.

Respectfully submitted,

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